

2005 DRAFTING REQUEST

Bill

Received: **02/14/2005**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Reynolds (608) 266-2512**

By/Representing: **patrick**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Other - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Reynolds@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Tax on adult entertainment

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	jkreye 02/16/2005	jdyer 02/26/2005	rschluet 02/28/2005	_____	sbasford 02/28/2005		State
	jkreye 04/19/2005	jdyer 04/19/2005		_____			
/P2			rschluet 04/20/2005	_____	sbasford 04/20/2005		State
/1	jkreye 01/19/2006	jdyer 01/19/2006	jfrantze 01/19/2006	_____	sbasford 01/19/2006		State

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	chanaman 02/01/2006	jdyer 02/01/2006		_____			

/2

jfrantze 02/02/2006	_____

lnorthro 02/02/2006

lemery 02/03/2006	S&L
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FE Sent For:

<END>

↳ At
Intro.

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62/1 2/12

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Bill 19
1/19

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/P1	jkreye	P1 2/26 jld					
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FE Sent For:

<END>

2-14-05

San Reynolds - lot H.

"sin tax" — VTAH

> people who sell pornography

> "escort" service, etc.

adult entertainment type of activity

local option

— county & municipality

proceeds would go to sex offender document

- also depends on \$?

- may ^{want} go ^{to} state tax depending on Q

Kreye, Joseph

From: Henneger, Patrick
Sent: Monday, February 14, 2005 11:24 AM
To: Kreye, Joseph
Subject: Link to Utah Law re: sex sales tax

Joe:

Here is the link to the Utah law. Let me know if you have any questions.

<http://www.livepublish.le.state.ut.us/lpBin22/lpext.dll?f=templates&fn=main-j.htm&vid=98&2.0>

Thanks,

Patrick Henneger
Office of State Senator Tom Reynolds
5th Senate District

1 of 1 DOCUMENT

UTAH CODE ANNOTATED
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*** STATUTES CURRENT THROUGH THE 2004 FOURTH SPECIAL SESSION ***
*** ANNOTATIONS CURRENT THROUGH 2004 UT 29, 2004 UT APP 268 ***
*** AND JULY 25, 2004 (FEDERAL CASES) ***

TITLE 59. REVENUE AND TAXATION
CHAPTER 27. SEXUALLY EXPLICIT BUSINESS AND ESCORT SERVICE TAX

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Utah Code Ann. § 59-27-102 (2004)

§ 59-27-102. Definitions

- (1) "Escort" means any individual who is available to the public for the purpose of accompanying another individual for:
 - (a) companionship; and
 - (b) (i) a salary;
(ii) a fee;
(iii) a commission;
(iv) hire;
(v) profit; or
(vi) any amount similar to an amount listed in this Subsection (1)(b).
- (2) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for:
 - (a) companionship; and
 - (b) (i) a salary;
(ii) a fee;
(iii) a commission;
(iv) hire;
(v) profit; or
(vi) any amount similar to an amount listed in this Subsection (2)(b).
- (3) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:
 - (a) genitals;
 - (b) the pubic region; or
 - (c) a female breast below a point immediately above the top of the areola.
- (4) "Sexually explicit business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually explicit business or an independent contractor, performs any service:

- (a) personally on the premises of the sexually explicit business;
- (b) during at least 30 consecutive or nonconsecutive days within a calendar year; and
- (c) for:
 - (i) a salary;
 - (ii) a fee;
 - (iii) a commission;
 - (iv) hire;
 - (v) profit; or
 - (vi) any amount similar to an amount listed in this Subsection (4)(c).

HISTORY: C. 1953, 59-26-102, enacted by L. 2004, ch. 214, § 2; recompiled as § 59-27-102.

NOTES:

EFFECTIVE DATES.—Laws 2004, ch. 214, § 9 makes the act effective on July 1, 2004.

USER NOTE: For more generally applicable notes, see notes under the first section of this article, part, chapter, subtitle, or title.

1 of 1 DOCUMENT

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*** STATUTES CURRENT THROUGH THE 2004 FOURTH SPECIAL SESSION ***
*** ANNOTATIONS CURRENT THROUGH 2004 UT 29, 2004 UT APP 268 ***
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TITLE 59. REVENUE AND TAXATION
CHAPTER 27. SEXUALLY EXPLICIT BUSINESS AND ESCORT SERVICE TAX

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Utah Code Ann. § 59-27-103 (2004)

§ 59-27-103. Tax imposed on a sexually explicit business — Tax imposed on an escort service

(1) A tax is imposed on a sexually explicit business equal to 10% of amounts paid to or charged by the sexually explicit business for the following transactions:

- (a) an admission fee;
- (b) a user fee;
- (c) a retail sale of tangible personal property made within the state;
- (d) a sale of:
 - (i) food and food ingredients as defined in Section 59-12-102; or
 - (ii) prepared food as defined in Section 59-12-102;
- (e) a sale of a beverage; and
- (f) any service.

(2) (a) Except as provided in Subsection (2)(b), a tax is imposed on an escort service equal to 10% of amounts paid or charged by the escort service for any transaction that involves providing an escort to another individual.

(b) Notwithstanding Subsection (2)(a), the tax imposed by Subsection (2)(a) does not apply to a transaction that is subject to the tax imposed in Subsection (1).

(3) The tax imposed by this section:

- (a) may not be imposed on any sales and use tax collected or paid under Chapter 12, Sales and Use Tax Act; and
- (b) is subject to an agreement sales and use tax under Chapter 12, Sales and Use Tax Act.

(4) The commission shall administer this chapter in accordance with Chapter 12, Part 1, Tax Collection.

HISTORY: C. 1953, 59-26-103, enacted by L. 2004, ch. 214, § 3; recompiled as § 59-27-103.

NOTES:

EFFECTIVE DATES.—Laws 2004, ch. 214, § 9 makes the act effective on July 1, 2004.

USER NOTE: For more generally applicable notes, see notes under the first section of this article, part, chapter, subtitle, or title.

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TITLE 59. REVENUE AND TAXATION
CHAPTER 27. SEXUALLY EXPLICIT BUSINESS AND ESCORT SERVICE TAX

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

Utah Code Ann. § 59-27-104 (2004)

§ 59-27-104. Payment of tax

(1) Subject to Subsection (2), a sexually explicit business or escort service subject to the tax imposed by this chapter shall file a return with the commission and pay the tax calculated on the return to the commission:

(a) quarterly on or before the last day of the month immediately following the last day of the previous calendar quarter if:

(i) the sexually explicit business or escort service is required to file a quarterly sales and use tax return with the commission under Section 59-12-107; or

(ii) the sexually explicit business or escort service is not required to file a sales and use tax return with the commission under Chapter 12, Sales and Use Tax Act; or

(b) monthly on or before the last day of the month immediately following the last day of the previous calendar month if the sexually explicit business is required to file a monthly sales and use tax return with the commission under Section 59-12-108.

(2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules to:

(a) establish standards for determining whether an operation is a sexually explicit business or escort service; and

(b) determine, for purposes of Section 59-27-102, amounts that are similar to an amount paid for:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) hire; or

(v) profit.

HISTORY: C. 1953, 59-26-104, enacted by L. 2004, ch. 214, § 4; recompiled as § 59-27-104.

NOTES:

EFFECTIVE DATES.—Laws 2004, ch. 214, § 9 makes the act effective on July 1, 2004.

USER NOTE: For more generally applicable notes, see notes under the first section of this article, part, chapter, subtitle, or title.

46.85(1)

(1) The department may establish and operate a Senior Companion Program modeled after the federal Senior Companion Program under 42 USC 5011 (b), in effect on April 30, 1980. If operated, the program shall engage the services of low-income persons aged 60 or over to provide supportive person-to-person assistance in health, education, recreation, welfare and related fields to persons aged 60 or over with special needs who reside in their own homes, and it may engage other persons aged 60 or older, regardless of income, as volunteers in similar activities. The department may also establish and operate a Retired Senior Volunteer Program modeled after the federal Retired Senior Volunteer Program under 42 USC 5001, in effect on April 30, 1980, to provide voluntary services in a community. If operated, the program shall engage persons aged 55 or older as volunteers.

46.85(3m)(a)

(a) From the appropriation under s. 20.435 (7) (dh), the department shall provide a state supplement to federally funded Senior Companion Program and Retired Senior Volunteer Program units that were in operation on December 1, 1988, and administered by qualified public and non-profit private agencies.

46.85(3m)(b)1.

1. Federally and nonfederally funded senior companion and retired senior volunteer programs.

46.85(4)

(4) Low income older persons employed in a senior companion program shall be paid a stipend which compensates them for no more than 20 hours per week at an hourly rate not to exceed the federal minimum wage, and in addition shall receive reimbursement for the cost of one meal per working day.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2110/P1

JK:.....

JK
JL

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-12-05

D-N

Gen

1 AN ACT ...; relating to: creating a tax on adult entertainment businesses. ✓

Analysis by the Legislative Reference Bureau

* This bill imposes a tax on a business at which any nude or partially nude individual performs, for pay, any service on the premises of the business. The tax is equal to 10 percent of the amount paid to the business for an admissions fee, a user fee, and the sale of food, beverages, tangible personal property, and services. ✓

* The bill also imposes a tax on any person who furnishes or arranges for an escort to accompany another individual for companionship and who is paid to furnish or arrange for such a service. The tax is equal to 10 percent of the amounts paid to provide such services in this state.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. Chapter 77 (title) of the statutes is amended to read:

3 CHAPTER 77

4 TAXATION OF FOREST CROPLANDS; ✓

5 REAL ESTATE TRANSFER FEES; ✓

6 SALES AND USE TAXES; (NY #)

~~NO~~ COUNTY AND SPECIAL DISTRICT SALES AND USE TAXES;
MANAGED FOREST LAND;
TEMPORARY RECYCLING SURCHARGE;
LOCAL FOOD AND BEVERAGE TAX;
LOCAL RENTAL CAR TAX;
PREMIER RESORT AREA TAXES;
STATE RENTAL VEHICLE FEE;
DRY CLEANING FEES;
ADULT ENTERTAINMENT BUSINESS TAX

SECTION 2. Subchapter XIII of chapter 77 [precedes 77.997] of the statutes is created to read:

CHAPTER 77

SUBCHAPTER XIII

ADULT ENTERTAINMENT BUSINESS TAX

77.997 Definitions. In this subchapter:

(1) "Business" means a business, as defined under s. 77.51 (1), that is located in this state.

(2) "Escort" means any individual who is available to the public for the purpose of accompanying another individual for companionship and who is paid to accompany another individual for companionship.

(3) "Nude or partially nude individual" means an individual who has any of the following less than completely and opaquely covered:

(a) Genitals.

(b) Pubic region.

1 (c) The female breast below the point that is immediately above the top of the
2 areola.

3 (4) “Sexually violent person” has the meaning given in s. 980.01 (7).

4 **77.9971 Imposition.** (1) A tax is imposed on a business at which any nude
5 or partially nude individual performs, for pay, any service on the premises of the
6 business on at least 30 days during the calendar year, regardless of whether the nude
7 or partially nude individual is an employee of the business or an independent
8 contractor, at the rate of 10 percent of the amount paid to the business for any of the
9 following:

10 (a) An admissions fee.

11 (b) A user fee.

12 (c) A retail sale of tangible personal property that is subject to the taxes
13 imposed under subch. III.

14 (d) A sale of food, food products, or beverages that is subject to the taxes
15 imposed under subch. III.

16 (e) A sale of any service.

17 (2) A tax is imposed on any person who furnishes or arranges for an escort to
18 accompany another individual for companionship, and who is paid to furnish or
19 arrange for such a service, at the rate of 10 percent of the amounts paid to provide
20 such services in this state.

21 **77.9972 Administration.** (1) The department of revenue shall administer
22 the tax under this subchapter and shall take any action, conduct any proceeding, and
23 impose interest and penalties.

SECTION 2

(2) Sections 77.52 (4), (12) to (14) and (19), 77.58 (1) to (5) and (7), 77.59, 77.60, 77.61 (3), (5), (8), (9), and (12) to (14), and 77.62, as they apply to the taxes under subch. III, apply to the tax under this subchapter.

(3) All revenue collected from the tax imposed under this subchapter shall be used for the community placement of sexually violent persons.

SECTION 3. Effective date.

(1) This act takes effect on the first day of the 2nd month beginning after publication.

(END)

d-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2110/P1dn

JK:.....

JLD

Senator Reynolds:

Please review this draft carefully to ensure that it is consistent with your intent. It is my understanding that the community placement of sexually violent persons is, generally, paid by the Department of Health and Family Services from the general fund. Therefore, under the bill, the state imposes the tax and the proceeds are deposited into the general fund. I can change the bill to have a county or municipality impose the tax, rather than the state, by enacting an ordinance, but then you may want to specify what the proceeds should be used for.

Please note that the definition for "escort" is somewhat broad and may encompass activities that you may not want to tax, such as providing a paid "companion" to assist an elderly person. Please contact me if you have any questions.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2110/P1dn
JK:jld:rs

February 28, 2005

Senator Reynolds:

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Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

ADULT ADULT**9.05 ADULT ENTERTAINMENT ESTABLISHMENTS AND ADULT ENTERTAINMENT TAVERNS.**

(1) Definitions . For the purpose of this section, the following words and phrases shall mean:

Adult Book or Video Store . An **adult** book store is an establishment which is used for selling, renting or loaning, for monetary consideration, the following materials, when such activity constitutes a substantial or significant part of the business conducted therein:

1. Any pictures, photographs, drawings, motion picture films or similar visual representations or images of a person or portions of a human body which are distinguished or characterized by their emphasis on matters depicting, or describing or relating to specified sexual activities or specified anatomical areas as defined herein or
2. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in Paragraph 1. above.
3. Significant part of the business means dedication or use of more than ten percent of the available floor, wall and display space to the sale, rental or loan of the subject matter referenced in Paragraphs 1. and 2. above, including space devoted to the viewing of videotapes or films, or display and advertisement of subject matter referenced herein in excess of ten percent of the total merchandise for sale, rental or loan.
4. Material, however distributed, which is published by a medical products manufacturer, a medical or health association, an insurance company, or by a consumer education organization shall not be considered part of the business of operating an **adult** book or video store.

Words used in this definition shall be defined as provided by Section 26.05(1).

Adult Entertainment Establishment . An **adult** entertainment establishment is an **adult** book or video store or an **adult** motion picture theater.

Adult Entertainment Taverns . An **adult** entertainment tavern is any establishment licensed to sell fermented malt beverages or intoxicating liquor pursuant to Chapter 38 of these ordinances which is used for presentations or service distinguished or characterized by an emphasis on exposure to view of human genitals, pubic area, buttocks or anus; or a female's vulva or breasts below the top of the areola ; or male genitals in a discernable turgid state, even if opaquely covered; or on acts of or acts which simulate erotic touching, sexual intercourse, masturbation, flagellation, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or any sexual acts prohibited by Wis. Statutes. (Cr. by Ord. 12826, 6-6-01)

Adult Motion Picture Theater . An **adult** motion picture theater is an enclosed building used for presenting or exhibiting a motion picture film, show or other presentation having as its dominant theme or distinguished or characterized by an emphasis on exposure to view of human genitals, pubic area, buttocks or anus; or a

female's vulva or breasts below the top of the areola ; or male genitals in a discernable turgid state, even if opaquely covered; or on acts of or acts which simulate erotic touching, sexual intercourse, masturbation, flagellation, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus, or any sexual acts prohibited by Wis. Statutes.

Booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises shall mean such enclosures as are specifically offered to the public or members of that establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure.

The phrase "booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises" does not mean enclosures which are private offices used by the owners, managers, or persons employed on the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purposes of viewing entertainment for a fee, and which are not open or available to any persons other than owners, managers or employees.

Council . The Common Council of the City of Madison.

Operator . Any person, partnership, corporation, or other entity operating, managing, renting, conducting, maintaining or owning any **adult** entertainment establishment, or **adult** entertainment tavern.

(Am. by Ord. 12,826, 6-6-01)

(2) License .

- (a) Except as provided in Subdivision (d) below, from and after the effective date of this ordinance, no **adult** entertainment establishment or **adult** entertainment tavern shall be operated or maintained in the City without first obtaining a license to operate issued by the City.
- (b) A license may be issued only for one **adult** entertainment establishment or **adult** entertainment tavern located at a fixed and certain place. Any person who desires to operate more than one **adult** entertainment establishment or **adult** entertainment tavern must have a license for each.
- (c) No license or interest in a license may be transferred to any person.
- (d) All **adult** entertainment establishments or **adult** entertainment tavern existing at the time of the passage of this ordinance must submit an application for a license within ninety (90) days of the passage of this ordinance. If an application is not received within such ninety-day period, then such existing **adult** entertainment establishment or **adult** entertainment tavern shall cease operations.

(Am. by Ord. 12,826, 6-6-01)

(3) Application for License .

- (a) Any person desiring to secure a license shall make application to the City Clerk. The application shall be filed in quadruplicate with and dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the City Police Department, the City Health Department, the Zoning Administrator, to the applicant, and to the Alcohol License Review Committee in the case of applications for an **adult** entertainment tavern license.
- (b) The application for a license shall be upon a form provided by the City Clerk. An applicant for a license interested directly in the ownership or operation of the business shall furnish the following information under oath:
 - 1. Name and address.
 - 2. Written proof that the individual is at least eighteen (18) years of age.
 - 3. The address of the **adult** entertainment establishment or **adult** entertainment tavern to be operated by the applicant.
 - 4. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and the name and address of all shareholders owning more than five percent (5%) of the stock in such corporation and all officers and directors of the corporation.
- (c) Within twenty-one (21) days of receiving an application for an **adult** entertainment establishment license, the City Clerk shall notify the applicant whether the application is granted or denied.
- (d) Within twenty-one (21) days of receiving a recommendation from the Alcohol License Review Committee to grant a license for an **adult** entertainment tavern, the City Clerk shall notify the applicant whether the application is granted or denied.
- (e) Whenever an application is denied or a license is not renewed, the City Clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter before the Council. If a public hearing is requested, it shall be held within ten (10) days thereafter before the Council. The Council shall make a determination on the suspension or revocation of the license within twenty (20) days of the scheduled public hearing and shall provide notification of the determination in writing to the licensee within five (5) days of the determination. The notification shall contain reasons for the suspension and/or revocation of the license. Appeal of the written determination of the Council to revoke or suspend a license shall be pursuant to Sec. 9.49(6)(b), Madison General Ordinances. Judicial review by certiorari may be sought within thirty (30) days of a decision issued pursuant to Sec. 9.49(6)(b)3. If a licensee makes a timely appeal of the Council's determination to suspend or revoke a license, no suspension or revocation shall be effective until a final decision is rendered pursuant to Sec. 9.49(6)(b)3. (Am. by Ord. 13,358, 7-5-03)
- (f) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at

any reasonable time and place for examination under oath regarding such application or the applicant's refusal to submit to or cooperate with any investigation required by this section shall constitute an admission by the applicant that s/he is ineligible for such license and shall be grounds for denial thereof by the City Clerk.

(Am. by Ord. 12,826, 6-7-01)

- (4) Standards for Issuance of License . To receive a license to operate an **adult** entertainment establishment or **adult** entertainment tavern, an applicant must meet the following standards:

(a) If the applicant is an individual:

1. The applicant shall be at least eighteen (18) years of age.
2. The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

1. All officers, directors and stockholders required to be named under Subsection (3)(b) shall be at least eighteen (18) years of age.
2. No officer, director or stockholder required to be named under Subsection (3)(b) shall have been found to have previously violated this section within five (5) years immediately preceding the date of the application.

(c) If the application is a partnership, joint venture or any other type of organization organization where two or more persons have a financial interest:

1. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
2. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application.

(d) A valid Zoning Certificate obtained from the Zoning Administrator pursuant to Sec. 28.12(5)(a).

(Am. by Ord. 12,826, 6-6-01)

- (5) Fees . A license fee of four hundred dollars (\$400) shall be submitted with the application for an **adult** entertainment establishment or five hundred dollars (\$500) for an **adult** entertainment tavern license. If the application is denied, one half of the fee shall be returned. (Am. by Ord. 12,826, 6-6-01)

(6) Display of License . The license shall be displayed in a conspicuous public place in the **adult** entertainment establishment. (Am. by Ord. 12,826, 6-6-01)

(7) Renewal of License .

- (a) Every license issued pursuant to this ordinance shall terminate on June 30 of each year, unless sooner revoked, and must be renewed before operation is allowed on July 1. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in quadruplicate with and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly by the City Clerk to the City Police Department, the City Health Department and to the operator. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data given under oath or affirmation as is required for an application for a new license.
- (b) A license renewal fee of six hundred dollars (\$600) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one half of the total fees collected shall be returned. (Am. by Ord. 13,601, 5-11-04)
- (c) If the City Police Department, City Health Department, Zoning Administrator or Alcohol License Review Committee is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.

(Am. by Ord. 12,826, 6-6-01)

(8) Revocation of License .

- (a) The Common Council shall revoke a license for any of the following reasons:
 - 1. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - 2. The operator or any employee of the operator violates any provision of this section or any rule or regulation adopted by the Common Council pursuant to this chapter provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
 - 3. The operator becomes ineligible to obtain a license.
 - 4. Any cost or fee required to be paid by this chapter is not paid.
 - 5. Any intoxicating liquor or fermented malt beverage is served or consumed on any premises of an adult entertainment establishment not licensed pursuant to Chapter 38 of these ordinances.
- (b) The Council, before revoking or suspending any license or permit, shall give the operator at least ten (10) days written notice of the charges against the operator and the opportunity for a public hearing before the Council. If a public hearing is requested, it shall be held within ten (10) days thereafter before the

Council. The Council shall make a determination on the suspension or revocation of the license within twenty (20) days of the scheduled public hearing and shall provide notification of the determination in writing to the licensee within five (5) days of the determination. The notification shall contain reasons for the suspension and/or revocation of the license. Appeal of the written determination of the Council to revoke or suspend a license shall be pursuant to Sec. 9.49(6)(b), Madison General Ordinances. Judicial review by certiorari may be sought within thirty (30) days of a decision issued pursuant to Sec. 9.49(6)(b)3. If a licensee makes a timely appeal of the Council's determination to suspend or revoke a license, no suspension or revocation shall be effective until a final decision is rendered pursuant to Sec. 9.49(6)(b)3.

- (c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
 - (d) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an **adult** entertainment establishment or **adult** entertainment tavern for one (1) year from the date of revocation of the license. (Am. by Ord. 12,826, 6-6-01)
- (9) Physical Layout of Adult Entertainment Establishment . Any **adult** entertainment establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any **adult** entertainment must comply with the following requirements:
- (a) Access . Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the **adult** entertainment establishment and shall be unobstructed by any door, lock or other control-type devices.
 - (b) Construction . Every booth, room or cubicle shall meet the following construction requirements:
 1. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any nonpublic areas by a wall.
 2. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
 3. All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth textured and easily cleanable.
 4. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
 5. The lighting level of each booth, room or cubicle when not in use shall be a minimum of ten (10) foot candles at all times as measured from the floor.
 - (c) Occupants . Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

(10) Operator Responsibility .

- (a) Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs, either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (b) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (c) No employee of an **adult** entertainment establishment or **adult** entertainment tavern shall allow any minor to loiter around or to frequent an **adult** entertainment establishment or to allow any minor to view any activity allowed in an **adult** motion picture theater or **adult** entertainment tavern.
- (d) The operator shall maintain the premises in a clean and sanitary condition at all times. The operator shall submit a fixed cleaning and sanitizing schedule to the Health Department for approval, and once approved, adhere to that schedule.
- (e) The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view any activity in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles provided, however, at no time shall be there be less than one (1) foot candle of illumination in such aisles as measured from the floor.
- (f) The operator shall conspicuously post inside each booth, stall, partitioned portion of room, or individual room an unmutated and undefaced sign or poster supplied by the health department which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
- (g) The operator shall post regulations concerning booth occupancy, on signs, with lettering at least one inch high, that are placed in conspicuous areas of the establishment and in each of the viewing enclosures.
- (h) The operator shall insure compliance of the establishment and its patrons with the provisions of this ordinance.

(Am. by Ord. 12,826, 6-6-01)

(11) Patron Responsibility .

- (a) No person shall occupy an enclosure already occupied by another person, regardless of whether permission to enter has been given.
- (b) No person shall at any time engage in specified sexual activities or cause any bodily discharge or litter associated with sexual activity while in the enclosure.

- (c) No person shall remove, destroy, or deface any signs or posters, or destroy or deface any information, brochures, or pamphlets, whether supplied by the Health Department or posted by the operator.
- (d) No person shall damage or deface any portion of the enclosure.
- (12) Administrative Procedure and Review. This Municipal Code and the Wisconsin Statutes shall govern the administrative procedure and review regarding the granting, denial, renewal, nonrenewal, revocation or suspension of a license.
- (13) Exclusions. All private and public schools, as defined in Ch. 115, Wis. Stats., hospitals, medical clinics and public health facilities, located within the City of Madison, are exempt from obtaining a license hereunder when instructing pupils or patients/clients in sex education, prenatal, family planning, or child birth classes as part of their curriculum or services.
- (14) Enforcement. It shall be the duty of the Health Department, the Building Inspection Unit and the Police Department to administer and enforce the provisions of this ordinance.
- (15) Penalty.
 - (a) In addition to the revocation, suspension or nonrenewal of any license issued under this ordinance, any person found to be in violation of any provision of this ordinance shall be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) and in the case of an operator shall result in the suspension or revocation of any license up to one (1) year.
 - (b) Each violation of this ordinance shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.
- (16) Severability. If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of the same.

(Sec. 9.05 Cr. by Ord. 10,919, Adopted 5-17-94; Am by Ord. 12,926, 6-6-01)

Kreye, Joseph

From: Henneger, Patrick
Sent: Monday, April 11, 2005 11:39 AM
To: Kreye, Joseph
Subject: LRB 2110

Hi Joe:

I have some revisions that Senator Reynolds wanted to make to LRB 2110. I know you're probably busy with all the budget stuff, so this is no big rush. Tom's concept of the bill is a little different than what I initially described. He wants the target of the tax to only be on merchandise sold at an "adult book store" zoned business. He also wants to deposit the tax money into a SEG fund to be used for maintenance of a transitional release facility. Let me know if you have any questions.

Thanks Joe!

Patrick Henneger
Office of Senator Tom Reynolds
5th Senate District
266-2512

Kreye, Joseph

From: Kreye, Joseph
Sent: Tuesday, April 12, 2005 11:49 AM
To: Henneger, Patrick
Subject: RE: LRB 2110

Patrick,

It's not clear to me what a "transitional release facility" is since that term does not appear in the statutes. The original draft provided that all revenue collected from the tax would be used for the "community placement of sexually violent persons," but it also wasn't clear to me then how that money would be appropriated. You may want to contact someone on the general government and justice team at the Fiscal Bureau to try to pin this down and have him or her give me a call. Thanks.

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

-----Original Message-----

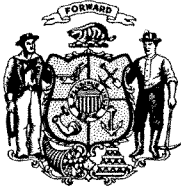
From: Henneger, Patrick
Sent: Monday, April 11, 2005 11:39 AM
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Hi Joe:

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Thanks Joel

Patrick Henneger
Office of Senator Tom Reynolds
5th Senate District
266-2512



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2110/P1
JK:jld:rs

RM not R

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

✓ and making an appropriation

in 4-19-05

500N
D-N

re gen

1 AN ACT *to amend* chapter 77 (title); and *to create* subchapter XIII of chapter 77
2 [precedes 77.997] of the statutes; **relating to:** creating a tax on adult ✓
3 entertainment businesses. *the operation of an adult bookstore or video store*

Analysis by the Legislative Reference Bureau

This bill imposes a tax on a ~~business at which any nude or partially nude individual performs, for pay, any service on the premises of the business.~~ The tax is equal to ten percent of the amount paid to the business for an admissions fee, a user fee, and the sale of food, beverages, tangible personal property, and services.

The bill also imposes a tax on any person who furnishes or arranges for an escort to accompany another individual for companionship and who is paid to furnish or arrange for such a service. The tax is equal to ten percent of the amounts paid to provide such services in this state.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. Chapter 77 (title) of the statutes is amended to read:

5 CHAPTER 77

INSERT
1-3

1 **TAXATION OF FOREST CROPLANDS;**
2 **REAL ESTATE TRANSFER FEES;**
3 **SALES AND USE TAXES; COUNTY**
4 **AND SPECIAL DISTRICT SALES**
5 **AND USE TAXES; MANAGED FOREST**
6 **LAND; TEMPORARY RECYCLING**
7 **SURCHARGE; LOCAL FOOD AND**
8 **BEVERAGE TAX; LOCAL RENTAL**
9 **CAR TAX; PREMIER RESORT AREA**
10 **TAXES; STATE RENTAL VEHICLE FEE;**
11 **DRY CLEANING FEES; ADULT**
12 **ENTERTAINMENT BUSINESS TAX**

13 **SECTION 2.** Subchapter XIII of chapter 77 [precedes 77.997] of the statutes is
14 created to read:

15 **CHAPTER 77**

16 **SUBCHAPTER XIII**

17 **ADULT ENTERTAINMENT BUSINESS TAX**

18 **77.997 Definitions.** In this subchapter:

19 **(1)** “Business” means a business, as defined under s. 77.51 (1), that is located
20 in this state.

21 **(2)** “Escort” means any individual who is available to the public for the purpose
22 of accompanying another individual for companionship and who is paid to
23 accompany another individual for companionship.

(3) "Nude or partially nude individual" means an individual who has any of the following less than completely and opaquely covered:

- (a) Genitals.
- (b) Pubic region.
- (c) The female breast below the point that is immediately above the top of the areola.

(4) "Sexually violent person" has the meaning given in s. 980.01 (7).

77.9971 Imposition. (1) A tax is imposed on a business at which any nude or partially nude individual performs, for pay, any service on the premises of the business on at least 30 days during the calendar year, regardless of whether the nude or partially nude individual is an employee of the business or an independent contractor, at the rate of 10 percent of the amount paid to the business for any of the following:

- (a) An admissions fee.
- (b) A user fee.
- (c) A retail sale of tangible personal property that is subject to the taxes imposed under subch. III.
- (d) A sale of food, food products, or beverages that is subject to the taxes imposed under subch. III.

(e) A sale of any service.

that is subject to the tax imposed under subch. III or

(2) A tax is imposed on any person who furnishes or arranges for an escort to accompany another individual for companionship, and who is paid to furnish or arrange for such a service, at the rate of 10 percent of the amounts paid to provide such services in this state.

that operates an adult book store or adult video store, as determined by the municipality in which the store is located ordinance or zoning by

77.9972 Administration. (1) The department of revenue shall administer the tax under this subchapter and shall take any action, conduct any proceeding, and impose interest and penalties.

(2) Sections 77.52 (4), (12) to (14) and (19), 77.58 (1) to (5) and (7), 77.59, 77.60, 77.61 (3), (5), (8), (9), and (12) to (14), and 77.62, as they apply to the taxes under subch. III, apply to the tax under this subchapter.

(3) All revenue collected from the tax imposed under this subchapter shall be used for the community placement of sexually violent persons.

SECTION 3. Effective date.

(1) This act takes effect on the first day of the 2nd month beginning after publication.

(END)

credited to the appropriations
account under s. 20, 435 (2) (g) ⁹⁶

d-note
↓

Insert 1-3

See*. a; 20.43^{gb}5(2)(gb)^x

20.43^{gb}5(2)(gb) community placement [ⓧ] all money

received from the tax imposed under s. 77.9971[✓] to
be used for maintenance of a transitional
release facility for sexually violent persons,
as defined in s. 980.01(7).[✓]

(end ins 1-3)

2110/P2 du
vk

Senator Reynolds:

Please review this draft carefully to ensure
that it ^{is} consistent ^{with} your intent.

vk

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2110/P2dn
JK:jld:rs

April 19, 2005

Senator Reynolds:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Kreye, Joseph

From: Henneger, Patrick
Sent: Tuesday, January 17, 2006 11:42 AM
To: Kreye, Joseph
Subject: LRB 2110/P2

Attachments: 05-2110P2.pdf

Hi Joe-

I'm back on LRB 2110. I know we were emailing about it previously. The second preliminary draft (attached below) looks good except that Senator Reynolds wants to specify that the appropriation account created in the draft (sec. 20.435(2)(gb)) will be administered by DHFS. DHFS will distribute funds in the form of grants to counties or municipalities for the siting, construction and maintenance of transitional release facilities. DHFS will promulgate rules relating to the requirements of proposals/grant applications submitted by counties or municipalities. I spoke with Fiscal Bureau who made these suggestions. Also, Senator Reynolds wanted to make each grant one million dollars. Is it a good/bad idea to set the amount of the grant or would it be easier to let DHFS determine the amount of each grant? I hope this provides enough detail to make the draft work. Let me know if you have any questions.

Thanks,

Patrick



05-2110P2.pdf (18 KB)

one mil max per

*1-19-06
conversation
w/ Patrick*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

The revenue generated from the tax will be distributed by the Department of Health and Family Services to counties and municipalities for the siting, construction, and maintenance of transitional release facilities for sexually violent persons who are placed on supervised release.

- re gen

providing grants for transitional release facilities, requiring the exercise of rule-making authority

- 1 AN ACT *to amend* chapter 77 (title); and *to create* 20.435 (2) (gb) and subchapter
- 2 XIII of chapter 77 [precedes 77.9971] of the statutes; **relating to:** creating a tax
- 3 on adult entertainment businesses and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill imposes a tax on the operation of an adult book store or video store. The tax is equal to ten percent of the amount paid to the business for an admissions fee, a user fee, and the sale of food, beverages, tangible personal property, and services.]

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 20.435 (2) (gb) of the statutes is created to read:
- 5 20.435 (2) (gb) ~~Community placement.~~ All moneys received from the tax
- 6 imposed under s. 77.9971 to be used for ^{siting, construction, and} maintenance of a transitional release facility
- 7 for sexually violent persons, ~~as defined in s. 980.01 (7).~~

transitional release facilities

who are placed on supervised release as provided under 980.08(5m)

1 **SECTION 2.** Chapter 77 (title) of the statutes is amended to read:

2 **CHAPTER 77**

3 **TAXATION OF FOREST CROPLANDS;**

4 **REAL ESTATE TRANSFER FEES;**

5 **SALES AND USE TAXES; COUNTY**

6 **AND SPECIAL DISTRICT SALES**

7 **AND USE TAXES; MANAGED FOREST**

8 **LAND; TEMPORARY RECYCLING**

9 **SURCHARGE; LOCAL FOOD AND**

10 **BEVERAGE TAX; LOCAL RENTAL**

11 **CAR TAX; PREMIER RESORT AREA**

12 **TAXES; STATE RENTAL VEHICLE FEE;**

13 **DRY CLEANING FEES; ADULT**

14 **ENTERTAINMENT BUSINESS TAX**

15 **SECTION 3.** Subchapter XIII of chapter 77 [precedes 77.9971] of the statutes is
16 created to read:

17 **CHAPTER 77**

18 **SUBCHAPTER XIII**

19 **ADULT ENTERTAINMENT BUSINESS TAX**

20 **77.9971 Imposition. (1)** A tax is imposed on a business that operates an adult
21 book store or adult video store, as determined by ordinance or zoning by the
22 municipality in which the store is located, at the rate of 10 percent of the amount paid
23 to the business for any of the following:

24 (a) An admissions fee.

1 (b) A user fee.

2 (c) A retail sale of tangible personal property that is subject to the taxes
3 imposed under subch. III.

4 (d) A sale of food, food products, or beverages that is subject to the taxes
5 imposed under subch. III.

6 (e) A sale of any service that is subject to the tax imposed under subch III.

7 **77.9972 Administration. (1)** The department of revenue shall administer
8 the tax under this subchapter and shall take any action, conduct any proceeding, and
9 impose interest and penalties.

10 **(2)** Sections 77.52 (4), (12) to (14) and (19), 77.58 (1) to (5) and (7), 77.59, 77.60,
11 77.61 (3), (5), (8), (9), and (12) to (14), and 77.62, as they apply to the taxes under
12 subch. III, apply to the tax under this subchapter.

13 **(3)** All revenue collected from the tax imposed under this subchapter shall be
14 credited to the appropriation account under s. 20.435 (2) (gb).

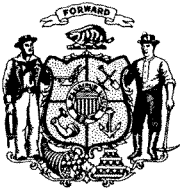
15 **SECTION 4. Effective date.**

16 (1) This act takes effect on the first day of the 2nd month beginning after
17 publication.

18 (END)

aj, 980.08 (5m) — From the appropriation under s. 20.435 (2) (gb)

amend 980.12 to exempt
(5m)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2110/P2

JK:jld:rs

in 1-19-06

due Tues 1-24-06

RMK

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

The revenue generated from the tax will be distributed by the Department of Health and Family Services to counties and municipalities for the siting, construction, and maintenance of transitional release facilities for sexually violent persons who are placed on supervised release.

providing grants for transitional release facilities, requiring the exercise of rule-making authority,

reger

- 1 AN ACT to amend chapter 77 (title); and to create 20.435 (2) (gb) and subchapter
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Analysis by the Legislative Reference Bureau

This bill imposes a tax on the operation of an adult book store or video store. The tax is equal to ten percent of the amount paid to the business for an admissions fee, a user fee, and the sale of food, beverages, tangible personal property, and services.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Transitional release facilities

SECTION 1. 20.435 (2) (gb) of the statutes is created to read:

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imposed under s. 77.9971 to be used for maintenance of a transitional release facility

for sexually violent persons, as defined in s. 980.01 (7).

are placed on supervised release, as provided under s. 980.08 (5m)

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CHAPTER 77

TAXATION OF FOREST CROPLANDS;

REAL ESTATE TRANSFER FEES;

SALES AND USE TAXES; COUNTY

AND SPECIAL DISTRICT SALES

AND USE TAXES; MANAGED FOREST

LAND; TEMPORARY RECYCLING

SURCHARGE; LOCAL FOOD AND

BEVERAGE TAX; LOCAL RENTAL

CAR TAX; PREMIER RESORT AREA

TAXES; STATE RENTAL VEHICLE FEE;

DRY CLEANING FEES; ADULT

ENTERTAINMENT BUSINESS TAX

SECTION 3. Subchapter XIII of chapter 77 [precedes 77.9971] of the statutes is created to read:

CHAPTER 77

SUBCHAPTER XIII

ADULT ENTERTAINMENT BUSINESS TAX

77.9971 Imposition. (1) A tax is imposed on a business that operates an adult book store or adult video store, as determined by ordinance or zoning by the municipality in which the store is located, at the rate of 10 percent of the amount paid to the business for any of the following:

(a) An admissions fee.

1 (b) A user fee.

2 (c) A retail sale of tangible personal property that is subject to the taxes
3 imposed under subch. III.

4 (d) A sale of food, food products, or beverages that is subject to the taxes
5 imposed under subch. III.

6 (e) A sale of any service that is subject to the tax imposed under subch III.

7 **77.9972 Administration.** (1) The department of revenue shall administer
8 the tax under this subchapter and shall take any action, conduct any proceeding, and
9 impose interest and penalties.

10 (2) Sections 77.52 (4), (12) to (14) and (19), 77.58 (1) to (5) and (7), 77.59, 77.60,
11 77.61 (3), (5), (8), (9), and (12) to (14), and 77.62, as they apply to the taxes under
12 subch. III, apply to the tax under this subchapter.

13 (3) All revenue collected from the tax imposed under this subchapter shall be
14 credited to the appropriation account under s. 20.435 (2) (gb).

15 **SECTION 4. Effective date.**

16 (1) This act takes effect on the first day of the 2nd month beginning after
17 publication.

18 (END)

Insert 3-14 ✓

INJURY 3-14

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

key # in 980.08 (5m) ^{5m x}

980.08 (5m) ^{gb} From the appropriation under s. 20.435(2) (gb),

the department shall provide grants, in ^{the} manner

determined by the department by rule, to counties and

municipalities for the siting, construction, and

maintenance of transitional release facilities for

persons placed on supervised release. No grant

awarded under this subsection may exceed \$1,000,000

in a fiscal year.



inset 3-14

Section #. 980.12 (1) ^x of the statutes is amended to read:

980.12 (1) Except as provided in ss. 980.03 (4) and 980.08 (3) ^{5m ✓} and (5m) the department shall pay from the appropriations under s. 20.435 (2) (a) and (bm) for all costs relating to the evaluation, treatment and care of persons evaluated or committed under this chapter.

History: 1993 a. 479; 1997 a. 284; 1999 a. 9.

end of inset 3-14

Kreye, Joseph

From: Henneger, Patrick
Sent: Tuesday, January 31, 2006 5:11 PM
To: Kreye, Joseph
Subject: LRB 2110 tax on adult entertainment businesses

Hi Joe:

Senator Reynolds has a couple of final changes to LRB 2110. He would like to change/add the following:

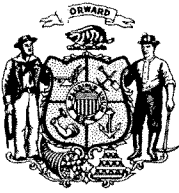
✓ 1. Raise the tax from 10% to 12%

CMH 2. Eliminate the requirement that sex offenders be placed back in the county of residence at the time the offense was committed (a requirment under chapter 980 I believe).

CMH 3. Specify that the transitional release facilities can only be built in remote locations as determined by rule by the department.

Please let me know if you any questions. Thanks Joe!

Patrick



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2110/1

JK:jld:jf

2005 BILL

SOON - 2/1
IN

the county of placement for persons
on supervised release

Regen

1 AN ACT *to amend* chapter 77 (title) and 980.12 (1); and *to create* 20.435 (2) (gb),
2 subchapter XIII of chapter 77 [precedes 77.9971] and 980.08 (5m) of the
3 statutes; **relating to:** creating a tax on adult entertainment businesses,
4 providing grants for transitional release facilities, requiring the exercise of
5 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

INS A
This bill imposes a tax on the operation of an adult book store or video store. The tax is equal to ten percent of the amount paid to the business for an admissions fee, a user fee, and the sale of food, beverages, tangible personal property, and services. The revenue generated from the tax will be distributed by the Department of Health and Family Services to counties and municipalities for the siting, construction, and maintenance of transitional release facilities for sexually violent persons who are placed on supervised release.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

STATE LOCAL FE
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 SECTION 1. 20.435 (2) (gb) of the statutes is created to read:

INS J
1-6
Only transitional release facilities that are to be located in a remote area are eligible for a grant for siting or constructing.

BILL**SECTION 1**

1 20.435 (2) (gb) *Transitional release facilities*. All moneys received from the tax
2 imposed under s. 77.9971 to be used for the siting, construction, and maintenance
3 of transitional release facilities for persons who are placed on supervised release, as
4 provided under s. 980.08 (5m).

INS 5 ✓
2-5
6 **SECTION 2.** Chapter 77 (title) of the statutes is amended to read:

CHAPTER 77**TAXATION OF FOREST CROPLANDS;****REAL ESTATE TRANSFER FEES;****SALES AND USE TAXES; COUNTY****AND SPECIAL DISTRICT SALES****AND USE TAXES; MANAGED FOREST****LAND; TEMPORARY RECYCLING****SURCHARGE; LOCAL FOOD AND****BEVERAGE TAX; LOCAL RENTAL****CAR TAX; PREMIER RESORT AREA****TAXES; STATE RENTAL VEHICLE FEE;****DRY CLEANING FEES; ADULT****ENTERTAINMENT BUSINESS TAX**

19 **SECTION 3.** Subchapter XIII of chapter 77 [precedes 77.9971] of the statutes is
20 created to read:

CHAPTER 77**SUBCHAPTER XIII****ADULT ENTERTAINMENT BUSINESS TAX**

BILL

1 **77.9971 Imposition.** (1) A tax is imposed on a business that operates an adult
2 book store or adult video store, as determined by ordinance or zoning by the
3 municipality in which the store is located, at the rate of ~~10~~ percent of the amount paid
4 to the business for any of the following:

5 (a) An admissions fee.

6 (b) A user fee.

7 (c) A retail sale of tangible personal property that is subject to the taxes
8 imposed under subch. III.

9 (d) A sale of food, food products, or beverages that is subject to the taxes
10 imposed under subch. III.

11 (e) A sale of any service that is subject to the tax imposed under subch III.

12 **77.9972 Administration.** (1) The department of revenue shall administer
13 the tax under this subchapter and shall take any action, conduct any proceeding, and
14 impose interest and penalties.

15 (2) Sections 77.52 (4), (12) to (14) and (19), 77.58 (1) to (5) and (7), 77.59, 77.60,
16 77.61 (3), (5), (8), (9), and (12) to (14), and 77.62, as they apply to the taxes under
17 subch. III, apply to the tax under this subchapter.

18 (3) All revenue collected from the tax imposed under this subchapter shall be
19 credited to the appropriation account under s. 20.435 (2) (gb).

20 **SECTION 4.** 980.08 (5m) of the statutes is created to read:

21 980.08 (5m) (a) From the appropriation under s. 20.435 (2) (gb), the department
22 shall provide grants, in the manner determined by the department by rule, to
23 counties and municipalities for the siting, construction, and maintenance of
24 transitional release facilities for persons placed on supervised release. No grant
25 awarded under this subsection may exceed \$1,000,000 in a fiscal year.

BILL**SECTION 5**

1 **SECTION 5.** 980.12 (1) of the statutes is amended to read:

2 980.12 (1) Except as provided in ss. 980.03 (4) and 980.08 (3) and (5m), the
3 department shall pay from the appropriations under s. 20.435 (2) (a) and (bm) for all
4 costs relating to the evaluation, treatment and care of persons evaluated or
5 committed under this chapter.

6 **SECTION 6. Effective date.**

7 (1) This act takes effect on the first day of the 2nd month beginning after
8 publication.

9 **(END)**

MOVE

Section #. Initial applicability.
& (#) The treatment of section 980.08 (3) of the statutes
first applies to plans for supervised release that
are not approved by the court on the effective
date of this subsection. ✓

2005 SENATE BILL 191

April 27, 2005 – Introduced by Senators PLALE, CARPENTER, A. LASEE and REYNOLDS, cosponsored by Representatives HONADEL, CULLEN, MCCORMICK, SINICKI, STASKUNAS, STONE, VUKMIR, ZEPNICK and PRIDEMORE. Referred to Committee on Judiciary, Corrections and Privacy.

- 1 AN ACT *to repeal* 980.105; *to renumber and amend* 980.08 (5); and *to amend*
2 20.435 (2) (bj), 46.10 (2) and 301.03 (19) of the statutes; **relating to:** county of
3 placement for persons on supervised release.

Analysis by the Legislative Reference Bureau

INS
A → Under current law, a person who has been committed to the custody of the department of health and family services (DHFS) as a sexually violent person may be placed on supervised release if the person no longer requires institutional care. If a court determines that supervised release is appropriate, DHFS must make its best effort to arrange that the person be placed in a residential facility or dwelling in the person's county of residence (generally the county where the person lived prior to committing the sexually violent offense), as determined by DHFS. If the person's county of residence declines to prepare a plan for supervised release, DHFS may arrange for another county to prepare a plan, and if no county agrees to prepare a plan, the court must order a county to prepare a plan. DHFS and the county in which the person will be released must prepare a plan for treating and monitoring the person while on supervised release.

This bill eliminates the requirement that DHFS make its best effort to place the person in his or her county of residence. Instead DHFS must designate the county of placement based on the type of treatment and services the person may need and the ability of the county, a public agency, or a private agency to provide the treatment and services and based on the proximity of other persons on supervised release and of persons in the custody of the Department of Corrections regarding whom a sex offender notification bulletin has been issued to law enforcement agencies.

END
OF
INS
A

[Signature]

SENATE BILL 191

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (2) (bj) of the statutes is amended to read:

2 20.435 (2) (bj) *Competency examinations and conditional and supervised*
3 *release services.* Biennially, the amounts in the schedule for outpatient competency
4 examinations and for payment by the department of costs for treatment and services
5 for persons released under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4) (e)
6 or 980.08 (5) (b), for which the department has contracted with county departments
7 under s. 51.42 (3) (aw) 1. d., with other public agencies, or with private agencies to
8 provide the treatment and services.

9 **SECTION 2.** 46.10 (2) of the statutes is amended to read:

10 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,
11 including but not limited to a person admitted, committed or placed under s. 975.01,
12 1977 stats., s. 975.02, 1977 stats., and s. 975.17, 1977 stats., and ss. 51.10, 51.13,
13 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.06, 971.14
14 (2) and (5), 971.17 (1), 975.06 and 980.06, receiving care, maintenance, services and
15 supplies provided by any institution in this state including University of Wisconsin
16 Hospitals and Clinics, in which the state is chargeable with all or part of the person's
17 care, maintenance, services and supplies, any person receiving care and services
18 from a county department established under s. 51.42 or 51.437 or from a facility
19 established under s. 49.73, and any person receiving treatment and services from a
20 public or private agency under s. 980.06 (2) (c), 1997 stats., or s. 971.17 (3) (d) or (4)
21 (e) or 980.08 (5) (b) and the person's property and estate, including the homestead,

SENATE BILL 191

INS 2-5 cont.

1 and the spouse of the person, and the spouse's property and estate, including the
2 homestead, and, in the case of a minor child, the parents of the person, and their
3 property and estates, including their homestead, and, in the case of a foreign child
4 described in s. 48.839 (1) who became dependent on public funds for his or her
5 primary support before an order granting his or her adoption, the resident of this
6 state appointed guardian of the child by a foreign court who brought the child into
7 this state for the purpose of adoption, and his or her property and estate, including
8 his or her homestead, shall be liable for the cost of the care, maintenance, services
9 and supplies in accordance with the fee schedule established by the department
10 under s. 46.03 (18). If a spouse, widow surviving spouse, or minor, or an
11 incapacitated person may be lawfully dependent upon the property for their support,
12 the court shall release all or such part of the property and estate from the charges
13 that may be necessary to provide for those persons. The department shall make
14 every reasonable effort to notify the liable persons as soon as possible after the
15 beginning of the maintenance, but the notice or the receipt thereof is not a condition
16 of liability. (end ins)

17 **SECTION 3.** 301.03 (19) of the statutes is amended to read:

18 301.03 (19) Work to minimize, to the greatest extent possible, the residential
19 population density of sex offenders, as defined in s. 302.116 (1) (b), who are on
20 probation, parole, or extended supervision or placed on supervised release under s.
21 980.06 (2) (c), 1997 stats., or s. 980.08 (5).

22 **SECTION 4.** 980.08 (5) of the statutes is renumbered 980.08 (5) (a) and amended
23 to read:

24 980.08 (5) (a) If the court finds that the person is appropriate for supervised
25 release, the court shall notify the department. The department shall make its best

INS
3-20


SENATE BILL 191

SECTION 4

1W 3-20 cont.

1 effort to arrange for placement of the person in a residential facility or dwelling that
2 is in the person's a county of residence, as determined designated by the department
3 under s. 980.105. The department shall designate the county of placement based on
4 the type of treatment and services identified in sub. (3) that the person may need
5 while on supervised release and the county's ability to provide the treatment and
6 services or the department's ability to contract with a public agency or with a private
7 agency for the provision of the treatment and services in the county and based on the
8 proximity of any potential placement to the residence of other persons on supervised
9 release and to the residence of persons who are in the custody of the department of
10 corrections and regarding whom a sex offender notification bulletin has been issued
11 to law enforcement agencies under s. 301.46 (2m) (a) or (am).

12 (b) The department and the county department under s. 51.42 in the county of
13 residence of the person designated by the department under par. (a) shall prepare
14 a plan that identifies the treatment and services, if any, that the person will receive
15 in the community. The plan shall address the person's need, if any, for supervision,
16 counseling, medication, community support services, residential services, vocational
17 services, and alcohol or other drug abuse treatment. ~~In developing a plan for where~~
18 ~~the person may reside while on supervised release, the department shall consider the~~
19 ~~proximity of any potential placement to the residence of other persons on supervised~~
20 ~~release and to the residence of persons who are in the custody of the department of~~
21 ~~corrections and regarding whom a sex offender notification bulletin has been issued~~
22 ~~to law enforcement agencies under s. 301.46 (2m) (a) or (am).~~ If the person is a serious
23 child sex offender, the plan shall address the person's need for pharmacological
24 treatment using an antiandrogen or the chemical equivalent of an antiandrogen. The
25 department may contract with a county department, under s. 51.42 (3) (aw) 1. d.,



SENATE BILL 191

INS
3-20 cont.

1 with another public agency or with a private agency to provide the treatment and
2 services identified in the plan. The plan shall specify who will be responsible for
3 providing the treatment and services identified in the plan. The plan shall be
4 presented to the court for its approval within 60 days after the court finding that the
5 person is appropriate for supervised release, unless the department, county
6 department, and person to be released request additional time to develop the plan.

7 (c) If the county department of the person's county of residence designated
8 under par. (a) declines to prepare a plan, the department may arrange for designate
9 another county to prepare the plan if the department determines that that county
10 meets the criteria under par. (a) and if that county agrees to prepare the plan and
11 if the person will be living in that county. If the department is unable to arrange for
12 designate another county to prepare a plan, the court shall designate a county
13 department to prepare the plan, order the county department to prepare the plan,
14 and place the person on supervised release in that county, except that the court may
15 not so designate the county department in any county where there is a facility in
16 which persons committed to institutional care under this chapter are placed unless
17 that county is also the person's county of residence. (end ins)

18 SECTION 5. 980.105 of the statutes is repealed.

19 (END)

INS
3-25
B

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2110/2ins
JK&CMH:jld:jf

1 Insert 3-25 *A*

2 (b) The department[✓] may not provide a grant under this[✓] subsection for the siting
3 or construction of a transitional release facility unless the facility will be located in
4 a remote area, as determined by the department by rule.[✓]

Emery, Lynn

From: Henneger, Patrick
Sent: Friday, February 03, 2006 12:25 PM
To: LRB.Legal
Subject: Bill Jackets for LRB 2110/2, LRB 3424/1 and LRB 3878/1

Hello:

Senator Reynolds requests that LRB 2110/2, LRB 3424/1 and LRB 3878/1 be jacketed for introduction. Please let me know if you have any questions.

Thanks,

Patrick Henneger
Office of Senator Reynolds